

107TH CONGRESS
1ST SESSION

S. 398

To combat international money laundering and to protect the United States financial system, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 27, 2001

Mr. KERRY (for himself, Mr. GRASSLEY, Mr. SARBANES, Mr. LEVIN, and Mr. ROCKEFELLER) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To combat international money laundering and to protect the United States financial system, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “International Counter-Money Laundering and Foreign
6 Anticorruption Act of 2001”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.

TITLE I—INTERNATIONAL COUNTER-MONEY LAUNDERING
MEASURES

Sec. 101. Special measures for jurisdictions, financial institutions, or international transactions of primary money laundering concern.

TITLE II—CURRENCY TRANSACTION REPORTING AMENDMENTS
AND RELATED IMPROVEMENTS

Sec. 201. Amendments relating to reporting of suspicious activities.

Sec. 202. Penalties for violations of geographic targeting orders and certain recordkeeping requirements, and lengthening effective period of geographic targeting orders.

Sec. 203. Authorization to include suspicions of illegal activity in written employment references.

Sec. 204. Bank Secrecy Act Advisory Group.

Sec. 205. Agency reports on reconciling penalty amounts.

TITLE III—ANTICORRUPTION MEASURES

Sec. 301. Corruption of foreign governments and ruling elites.

Sec. 302. Support for the Financial Action Task Force on Money Laundering.

1 SEC. 2. FINDINGS AND PURPOSES.

2 (a) FINDINGS.—The Congress finds that—

3 (1) money laundering, estimated by the Inter-
4 national Monetary Fund to amount to between 2
5 and 5 percent of global gross domestic product,
6 which is at least \$600,000,000,000 annually, pro-
7 vides the financial fuel that permits transnational
8 criminal enterprises to conduct and expand their op-
9 erations to the detriment of the safety and security
10 of American citizens;

11 (2) money launderers subvert legitimate finan-
12 cial mechanisms and banking relationships by using
13 them as protective covering for the movement of
14 criminal proceeds and, by so doing, can undermine
15 the integrity of United States financial institutions

1 and of the global financial and trading systems upon
2 which prosperity and growth depend;

3 (3) money launderers rely upon the existence
4 and use of certain jurisdictions outside of the United
5 States that offer bank secrecy and special tax or
6 regulatory advantages to nonresidents, and often
7 complement those advantages with weak financial
8 supervisory and regulatory regimes;

9 (4) certain kinds of transactions involving such
10 offshore jurisdictions, including those transactions
11 specifically designed to offer anonymity or the avoid-
12 ance of regulatory scrutiny, make it difficult for law
13 enforcement officials and regulators to follow the
14 trail of money earned by criminals and organized
15 international criminal enterprises that undermine
16 United States national interests and traffic in
17 human misery, whether they are narcotics dealers,
18 terrorists, arms smugglers, traffickers in human
19 beings, or those whose frauds prey upon law abiding
20 citizens;

21 (5) certain banking relationships between finan-
22 cial institutions in the United States and financial
23 institutions located in such offshore jurisdictions,
24 such as correspondent and payable-through ac-
25 counts, are particularly vulnerable to abuse because

1 of the difficulty in obtaining accurate information
2 about the beneficial owners whose funds pass
3 through such accounts;

4 (6) the ability to mount effective counter-meas-
5 ures to international money launderers requires na-
6 tional, as well as bilateral and multilateral action,
7 using tools specially designed for that effort; and

8 (7) the Basle Committee on Banking Regula-
9 tion and Supervisory Practices and the Financial
10 Action Task Force on Money Laundering, of both of
11 which the United States is a member, have each
12 adopted international anti-money laundering prin-
13 ciples and recommendations.

14 (b) PURPOSES.—The purposes of this Act are—

15 (1) to ensure that banking transactions and fi-
16 nancial relationships, the conduct of such trans-
17 actions and relationships, or both, do not contravene
18 the purposes of subchapter II of chapter 53 of title
19 31, United States Code, section 21 of the Federal
20 Deposit Insurance Act, or chapter 2 of title I of
21 Public Law 91–508, or facilitate the evasion of any
22 such provision, to ensure that the purposes of such
23 subchapter II continue to be fulfilled, and to guard
24 against international money laundering and other fi-
25 nancial crimes;

1 (2) to provide a clear national mandate for sub-
2 jecting to special scrutiny those foreign jurisdictions,
3 financial institutions operating outside of the United
4 States, and classes of international transactions that
5 pose particular, identifiable opportunities for money
6 laundering;

7 (3) to provide the Secretary of the Treasury
8 with broad discretionary authority to take measures
9 tailored to the particular money laundering problems
10 presented by specific foreign jurisdictions, financial
11 institutions operating outside of the United States,
12 and classes of international transactions;

13 (4) to provide domestic financial institutions
14 with guidance on particular foreign jurisdictions, fi-
15 nancial institutions operating outside of the United
16 States, and classes of international transactions that
17 are of primary money laundering concern to the
18 United States Government;

19 (5) to clarify the terms of the safe harbor from
20 civil liability for filing suspicious activity reports;

21 (6) to strengthen the authority of the Secretary
22 of the Treasury to issue and administer geographic
23 targeting orders, and to clarify that violations of
24 such orders or any other requirement imposed under
25 the authority contained in chapter 2 of title I of

1 Public Law 91–508 and subchapters II and III of
 2 chapter 53 of title 31, United States Code, may re-
 3 sult in criminal and civil penalties;

4 (7) to strengthen the ability of financial institu-
 5 tions to maintain the integrity of their employee
 6 population; and

7 (8) to strengthen measures to prevent the use
 8 of the United States financial system for personal
 9 gain by corrupt foreign officials and to facilitate the
 10 repatriation of any stolen assets to the citizens of
 11 countries to whom such assets belong.

12 **TITLE I—INTERNATIONAL**
 13 **COUNTER-MONEY LAUN-**
 14 **DERING MEASURES**

15 **SEC. 101. SPECIAL MEASURES FOR JURISDICTIONS, FINAN-**
 16 **CIAL INSTITUTIONS, OR INTERNATIONAL**
 17 **TRANSACTIONS OF PRIMARY MONEY LAUN-**
 18 **DERING CONCERN.**

19 (a) IN GENERAL.—Subchapter II of chapter 53 of
 20 title 31, United States Code, is amended by inserting after
 21 section 5318 the following new section:

1 **“§ 5318A. Special measures for jurisdictions, financial**
 2 **institutions, or international transactions**
 3 **of primary money laundering concern**

4 “(a) INTERNATIONAL COUNTER-MONEY LAUN-
 5 DERING REQUIREMENTS.—

6 “(1) IN GENERAL.—The Secretary may require
 7 domestic financial institutions and domestic financial
 8 agencies to take 1 or more of the special measures
 9 described in subsection (b) if the Secretary finds
 10 that reasonable grounds exist for concluding that a
 11 jurisdiction outside of the United States, 1 or more
 12 financial institutions operating outside of the United
 13 States, or 1 or more classes of transactions within,
 14 or involving, a jurisdiction outside of the United
 15 States is of primary money laundering concern, in
 16 accordance with subsection (c).

17 “(2) FORM OF REQUIREMENT.—The special
 18 measures described in subsection (b) may be im-
 19 posed by regulation, order, or otherwise as permitted
 20 by law, and in such sequence or combination, as the
 21 Secretary shall determine.

22 “(3) PROCESS FOR SELECTING SPECIAL MEAS-
 23 URES.—In selecting which special measure or meas-
 24 ures to take under this subsection, the Secretary—

25 “(A) shall consult with the Chairman of
 26 the Board of Governors of the Federal Reserve

1 System and, in the sole discretion of the Sec-
2 retary , such other agencies and interested par-
3 ties as the Secretary may find to be appro-
4 priate; and

5 “(B) shall consider—

6 “(i) whether similar action has been
7 or is being taken by other nations or multi-
8 lateral groups;

9 “(ii) whether the imposition of any
10 particular special measure would create a
11 significant competitive disadvantage, in-
12 cluding any undue cost or burden associ-
13 ated with compliance, for financial institu-
14 tions organized or licensed in the United
15 States; and

16 “(iii) the extent to which the action
17 would have a significant adverse systemic
18 impact on the international payment, clear-
19 ance and settlement system, or on legiti-
20 mate business activities involving the par-
21 ticular jurisdiction, institution, or class of
22 transactions.

23 “(4) NO LIMITATION ON OTHER AUTHORITY.—

24 This section shall not be construed as superseding or
25 otherwise restricting any other authority granted to

1 the Secretary, or to any other agency, by this sub-
 2 chapter or otherwise.

3 “(b) SPECIAL MEASURES.—The special measures re-
 4 ferred to in subsection (a), with respect to a jurisdiction
 5 outside of the United States, financial institution oper-
 6 ating outside of the United States, or class of transaction
 7 within, or involving, a jurisdiction outside of the United
 8 States, are as follows:

9 “(1) RECORDKEEPING AND REPORTING OF
 10 CERTAIN FINANCIAL TRANSACTIONS.—

11 “(A) IN GENERAL.—The Secretary may re-
 12 quire any domestic financial institution or do-
 13 mestic financial agency to maintain records, file
 14 reports, or both, concerning the aggregate
 15 amount of transactions, or concerning each
 16 transaction, with respect to a jurisdiction out-
 17 side of the United States, 1 or more financial
 18 institutions operating outside of the United
 19 States, or 1 or more classes of transactions
 20 within, or involving, a jurisdiction outside of the
 21 United States, if the Secretary finds any such
 22 jurisdiction, institution, or class of transactions
 23 to be of primary money laundering concern.

24 “(B) FORM OF RECORDS AND REPORTS.—
 25 Such records and reports shall be made and re-

1 tained at such time, in such manner, and for
 2 such period of time, as the Secretary shall de-
 3 termine, and shall include such information as
 4 the Secretary may determine, including—

5 “(i) the identity and address of the
 6 participants in a transaction or relation-
 7 ship, including the identity of the origi-
 8 nator of any funds transfer;

9 “(ii) the legal capacity in which a par-
 10 ticipant in any transaction is acting;

11 “(iii) the identity of the beneficial
 12 owner of the funds involved in any trans-
 13 action; and

14 “(iv) a description of any transaction.

15 “(2) INFORMATION RELATING TO BENEFICIAL
 16 OWNERSHIP.—In addition to any other requirement
 17 under any other provision of law, the Secretary may
 18 require any domestic financial institution or domes-
 19 tic financial agency to take such steps as the Sec-
 20 retary may determine to be reasonable and prac-
 21 ticable to obtain and retain information concerning
 22 the beneficial ownership of any account opened or
 23 maintained in the United States by a foreign person
 24 (other than a foreign entity whose shares are subject
 25 to public reporting requirements or are listed and

1 traded on a regulated exchange or trading market),
2 or a representative of such a foreign person, that in-
3 volves a jurisdiction outside of the United States, 1
4 or more financial institutions operating outside of
5 the United States, or 1 or more classes of trans-
6 actions within, or involving, a jurisdiction outside of
7 the United States, if the Secretary finds any such
8 jurisdiction, institution, or transaction to be of pri-
9 mary money laundering concern.

10 “(3) INFORMATION RELATING TO CERTAIN PAY-
11 ABLE-THROUGH ACCOUNTS.—If the Secretary finds
12 a jurisdiction outside of the United States, 1 or
13 more financial institutions operating outside of the
14 United States, or 1 or more classes of transactions
15 within, or involving, a jurisdiction outside of the
16 United States to be of primary money laundering
17 concern, the Secretary may require any domestic fi-
18 nancial institution or domestic financial agency that
19 opens or maintains a payable-through account in the
20 United States for a foreign financial institution in-
21 volving any such jurisdiction or any such financial
22 institution operating outside of the United States, or
23 a payable-through account through which any such
24 transaction may be conducted, as a condition of
25 opening or maintaining such account, to—

1 “(A) identify each customer (and rep-
2 resentative of such customer) of such financial
3 institution who is permitted to use, or whose
4 transactions are routed through, such payable-
5 through account; and

6 “(B) obtain, with respect to each such cus-
7 tomer (and each such representative), the same
8 information that the depository institution ob-
9 tains in the ordinary course of business with re-
10 spect to its customers residing in the United
11 States.

12 “(4) INFORMATION RELATING TO CERTAIN COR-
13 RESPONDENT ACCOUNTS.—If the Secretary finds a
14 jurisdiction outside of the United States, 1 or more
15 financial institutions operating outside of the United
16 States, or 1 or more classes of transactions within,
17 or involving, a jurisdiction outside of the United
18 States to be of primary money laundering concern,
19 the Secretary may require any domestic financial in-
20 stitution or domestic financial agency that opens or
21 maintains a correspondent account in the United
22 States for a foreign financial institution involving
23 any such jurisdiction or any such financial institu-
24 tion operating outside of the United States, or a cor-
25 respondent account through which any such trans-

1 action may be conducted, as a condition of opening
 2 or maintaining such account, to—

3 “(A) identify each customer (and rep-
 4 resentative of such customer) of any such finan-
 5 cial institution who is permitted to use, or
 6 whose transactions are routed through, such
 7 correspondent account; and

8 “(B) obtain, with respect to each such cus-
 9 tomer (and each such representative), the same
 10 information that the depository institution ob-
 11 tains in the ordinary course of business with re-
 12 spect to its customers residing in the United
 13 States.

14 “(5) PROHIBITIONS OR CONDITIONS ON OPEN-
 15 ING OR MAINTAINING CERTAIN CORRESPONDENT OR
 16 PAYABLE-THROUGH ACCOUNTS.—If the Secretary
 17 finds a jurisdiction outside of the United States, 1
 18 or more financial institutions operating outside of
 19 the United States, or 1 or more classes of trans-
 20 actions within, or involving, a jurisdiction outside of
 21 the United States to be of primary money laun-
 22 dering concern, the Secretary, in consultation with
 23 the Secretary of State, the Attorney General, and
 24 the Chairman of the Board of Governors of the Fed-
 25 eral Reserve System, may prohibit, or impose condi-

1 tions upon, the opening or maintaining in the United
2 States of a correspondent account or payable-
3 through account by any domestic financial institu-
4 tion or domestic financial agency for or on behalf of
5 a foreign banking institution if such correspondent
6 account or payable-through account involves any
7 such jurisdiction or institution, or if any such trans-
8 action may be conducted through such cor-
9 respondent account or payable-through account.

10 “(c) CONSULTATIONS AND INFORMATION TO BE
11 CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS,
12 OR TRANSACTIONS TO BE OF PRIMARY MONEY LAUN-
13 DERING CONCERN.—

14 “(1) IN GENERAL.—In making a finding that
15 reasonable grounds exist for concluding that a juris-
16 diction outside of the United States, 1 or more fi-
17 nancial institutions operating outside of the United
18 States, or 1 or more classes of transactions within,
19 or involving, a jurisdiction outside of the United
20 States is of primary money laundering concern so as
21 to authorize the Secretary to invoke 1 or more of the
22 special measures described in subsection (b), the
23 Secretary shall consult with the Secretary of State,
24 the Attorney General, the Secretary of Commerce,
25 and the United States Trade Representative.

1 “(2) INFORMATION.—The Secretary also shall
2 consider such information as the Secretary considers
3 to be relevant, including the following potentially rel-
4 evant factors:

5 “(A) In the case of a particular
6 jurisdiction—

7 “(i) the extent to which that jurisdic-
8 tion or financial institutions operating
9 therein offer bank secrecy or special tax or
10 regulatory advantages to nonresidents or
11 nondomiciliaries of such jurisdiction;

12 “(ii) the substance and quality of ad-
13 ministration of that jurisdiction’s bank su-
14 pervisory and counter-money laundering
15 laws;

16 “(iii) the relationship between the vol-
17 ume of financial transactions occurring in
18 that jurisdiction and the size of the juris-
19 diction’s economy;

20 “(iv) the extent to which that jurisdic-
21 tion is characterized as a tax haven or off-
22 shore banking or secrecy haven by credible
23 international organizations or multilateral
24 expert groups;

1 “(v) whether the United States has a
2 mutual legal assistance treaty with that ju-
3 risdiction, and the experience of United
4 States law enforcement officials, regulatory
5 officials, and tax administrators in obtain-
6 ing information about transactions origi-
7 nating in or routed through or to such ju-
8 risdiction; and

9 “(vi) the extent to which that jurisdic-
10 tion is characterized by high levels of offi-
11 cial or institutional corruption.

12 “(B) In the case of a decision to apply 1
13 or more of the special measures described in
14 subsection (b) only to a financial institution or
15 institutions, or to a transaction or class of
16 transactions, or to both, within, or involving, a
17 particular jurisdiction—

18 “(i) the extent to which such financial
19 institutions or transactions are used to fa-
20 cilitate or promote money laundering in or
21 through the jurisdiction;

22 “(ii) the extent to which such institu-
23 tions or transactions are used for legiti-
24 mate business purposes in such jurisdic-
25 tion; and

1 “(iii) the extent to which such action
2 is sufficient to ensure, with respect to
3 transactions involving such jurisdiction and
4 institutions operating in such jurisdiction,
5 that the purposes of this subchapter con-
6 tinue to be fulfilled, and to guard against
7 international money laundering and other
8 financial crimes.

9 “(d) NOTIFICATION OF SPECIAL MEASURES IN-
10 VOKED BY THE SECRETARY.—Not later than 10 days
11 after the date of any action taken by the Secretary under
12 subsection (a)(1), the Secretary shall notify, in writing,
13 the Committee on Financial Services of the House of Rep-
14 resentatives and the Committee on Banking, Housing, and
15 Urban Affairs of the Senate of any such action.

16 “(e) DEFINITIONS.—Notwithstanding any other pro-
17 vision of this subchapter, for purposes of this section, the
18 following definitions shall apply:

19 “(1) DEFINED TERMS.—

20 “(A) BANK DEFINITIONS.—The following
21 definitions shall apply with respect to a bank:

22 “(i) ACCOUNT.—The term ‘account’—

23 “(I) means a formal banking or
24 business relationship established to

1 provide regular services, dealings, and
 2 other financial transactions; and

3 “(II) includes a demand deposit,
 4 savings deposit, or other transaction
 5 or asset account and a credit account
 6 or other extension of credit.

7 “(ii) CORRESPONDENT ACCOUNT.—

8 The term ‘correspondent account’ means
 9 an account established to receive deposits
 10 from and make payments on behalf of a
 11 foreign financial institution.

12 “(iii) PAYABLE-THROUGH ACCOUNT.—

13 The term ‘payable-through account’ means
 14 an account, including a transaction ac-
 15 count (as defined in section 19(b)(1)(C) of
 16 the Federal Reserve Act), opened at a de-
 17 pository institution by a foreign financial
 18 institution by means of which the foreign
 19 financial institution permits its customers
 20 to engage, either directly or through a sub-
 21 account, in banking activities usual in con-
 22 nection with the business of banking in the
 23 United States.

24 “(B) DEFINITIONS APPLICABLE TO INSTI-

25 TUTIONS OTHER THAN BANKS.—With respect

1 to any financial institution other than a bank,
 2 the Secretary shall define, by regulation, order,
 3 or otherwise as permitted by law, the term ‘ac-
 4 count’ and shall include within the meaning of
 5 such term arrangements similar to payable-
 6 through and correspondent accounts.

7 “(2) OTHER TERMS.—The Secretary may, by
 8 regulation, order, or otherwise as permitted by law,
 9 further define the terms in paragraph (1) and define
 10 other terms for the purposes of this section, as the
 11 Secretary deems appropriate.”.

12 (b) CLERICAL AMENDMENT.—The table of sections
 13 for subchapter II of chapter 53 of title 31, United States
 14 Code, is amended by inserting after the item relating to
 15 section 5318 the following new item:

“5318A. Special measures for jurisdictions, financial institutions, or inter-
 national transactions of primary money laundering concern.”.

16 **TITLE II—CURRENCY TRANS-**
 17 **ACTION REPORTING AMEND-**
 18 **MENTS AND RELATED**
 19 **IMPROVEMENTS**

20 **SEC. 201. AMENDMENTS RELATING TO REPORTING OF SUS-**
 21 **PICIOUS ACTIVITIES.**

22 (a) AMENDMENT RELATING TO CIVIL LIABILITY IM-
 23 MUNITY FOR DISCLOSURES.—Section 5318(g)(3) of title
 24 31, United States Code, is amended to read as follows:

1 “(3) LIABILITY FOR DISCLOSURES.—

2 “(A) IN GENERAL.—Any financial institu-
 3 tion that makes a voluntary disclosure of any
 4 possible violation of law or regulation to a gov-
 5 ernment agency or makes a disclosure pursuant
 6 to this subsection or any other authority, and
 7 any director, officer, employee, or agent of such
 8 institution who makes, or requires another to
 9 make any such disclosure, shall not be liable to
 10 any person under any law or regulation of the
 11 United States, any constitution, law, or regula-
 12 tion of any State or political subdivision of any
 13 State, or under any contract or other legally en-
 14 forceable agreement (including any arbitration
 15 agreement), for such disclosure or for any fail-
 16 ure to provide notice of such disclosure to the
 17 person who is the subject of such disclosure or
 18 any other person identified in the disclosure.

19 “(B) RULE OF CONSTRUCTION.—Subpara-
 20 graph (A) shall not be construed as creating—

21 “(i) any inference that the term ‘per-
 22 son’, as used in such subparagraph, may
 23 be construed more broadly than its ordi-
 24 nary usage so to include any government
 25 or agency of government; or

1 “(ii) any immunity against, or other-
 2 wise affecting, any civil or criminal action
 3 brought by any government or agency of
 4 government to enforce any constitution,
 5 law, or regulation of such government or
 6 agency.”.

7 (b) PROHIBITION ON NOTIFICATION OF DISCLO-
 8 SURES.—Section 5318(g)(2) of title 31, United States
 9 Code, is amended to read as follows:

10 “(2) NOTIFICATION PROHIBITED.—

11 “(A) IN GENERAL.—If a financial institu-
 12 tion or any director, officer, employee, or agent
 13 of any financial institution, voluntarily or pur-
 14 suant to this section or any other authority, re-
 15 ports a suspicious transaction to a government
 16 agency—

17 “(i) the financial institution, director,
 18 officer, employee, or agent may not notify
 19 any person involved in the transaction that
 20 the transaction has been reported; and

21 “(ii) no officer or employee of the
 22 Federal Government or of any State, local,
 23 tribal, or territorial government within the
 24 United States, who has any knowledge that
 25 such report was made may disclose to any

1 person involved in the transaction that the
2 transaction has been reported, other than
3 as necessary to fulfill the official duties of
4 such officer or employee.

5 “(B) DISCLOSURES IN CERTAIN EMPLOY-
6 MENT REFERENCES.—Notwithstanding the ap-
7 plication of subparagraph (A) in any other con-
8 text, subparagraph (A) shall not be construed
9 as prohibiting any financial institution, or any
10 director, officer, employee, or agent of such in-
11 stitution, from including, in a written employ-
12 ment reference that is provided in accordance
13 with section 18(v) of the Federal Deposit Insur-
14 ance Act in response to a request from another
15 financial institution or a written termination
16 notice or employment reference that is provided
17 in accordance with the rules of the self-regu-
18 latory organizations registered with the Securi-
19 ties and Exchange Commission, information
20 that was included in a report to which subpara-
21 graph (A) applies, but such written employment
22 reference may not disclose that such informa-
23 tion was also included in any such report or
24 that such report was made.”.

1 **SEC. 202. PENALTIES FOR VIOLATIONS OF GEOGRAPHIC**
 2 **TARGETING ORDERS AND CERTAIN RECORD-**
 3 **KEEPING REQUIREMENTS, AND LENGTH-**
 4 **ENING EFFECTIVE PERIOD OF GEOGRAPHIC**
 5 **TARGETING ORDERS.**

6 (a) CIVIL PENALTY FOR VIOLATION OF TARGETING
 7 ORDER.—Section 5321(a)(1) of title 31, United States
 8 Code, is amended—

9 (1) by inserting “or order issued” after “sub-
 10 chapter or a regulation prescribed”; and

11 (2) by inserting “, or willfully violating a regu-
 12 lation prescribed under section 21 of the Federal
 13 Deposit Insurance Act or section 123 of Public Law
 14 91–508,” after “section 5314 and 5315”).

15 (b) CRIMINAL PENALTIES FOR VIOLATION OF TAR-
 16 GETING ORDER.—Section 5322 of title 31, United States
 17 Code, is amended—

18 (1) in subsection (a)—

19 (A) by inserting “or order issued” after
 20 “willfully violating this subchapter or a regula-
 21 tion prescribed”; and

22 (B) by inserting “, or willfully violating a
 23 regulation prescribed under section 21 of the
 24 Federal Deposit Insurance Act or section 123
 25 of Public Law 91–508,” after “under section
 26 5315 or 5324”; and

1 (2) in subsection (b)—

2 (A) by inserting “or order issued” after
3 “willfully violating this subchapter or a regula-
4 tion prescribed”; and

5 (B) by inserting “or willfully violating a
6 regulation prescribed under section 21 of the
7 Federal Deposit Insurance Act or section 123
8 of Public Law 91–508,” after “under section
9 5315 or 5324),”.

10 (c) STRUCTURING TRANSACTIONS TO EVADE TAR-
11 GETING ORDER OR CERTAIN RECORDKEEPING REQUIRE-
12 MENTS.—Section 5324(a) of title 31, United States Code,
13 is amended—

14 (1) by inserting a comma after “shall”;

15 (2) by striking “section—” and inserting “sec-
16 tion, the reporting or recordkeeping requirements
17 imposed by any order issued under section 5326, or
18 the recordkeeping requirements imposed by any reg-
19 ulation prescribed under section 21 of the Federal
20 Deposit Insurance Act or section 123 of Public Law
21 91–508—”;

22 (3) in paragraph (1), by inserting “, to file a
23 report or to maintain a record required by an order
24 issued under section 5326, or to maintain a record
25 required pursuant to any regulation prescribed

1 under section 21 of the Federal Deposit Insurance
 2 Act or section 123 of Public Law 91–508” after
 3 “regulation prescribed under any such section”; and
 4 (4) in paragraph (2), by inserting “, to file a
 5 report or to maintain a record required by any order
 6 issued under section 5326, or to maintain a record
 7 required pursuant to any regulation prescribed
 8 under section 5326, or to maintain a record required
 9 pursuant to any regulation prescribed under section
 10 21 of the Federal Deposit Insurance Act or section
 11 123 of Public Law 91–508,” after “regulation pre-
 12 scribed under any such section”.

13 (d) LENGTHENING EFFECTIVE PERIOD OF GEO-
 14 GRAPHIC TARGETING ORDERS.—Section 5326(d) of title
 15 31, United States Code, is amended by striking “60” after
 16 “shall be effective for more than” and inserting “180”.

17 **SEC. 203. AUTHORIZATION TO INCLUDE SUSPICIONS OF IL-**
 18 **LEGAL ACTIVITY IN WRITTEN EMPLOYMENT**
 19 **REFERENCES.**

20 Section 18 of the Federal Deposit Insurance Act (12
 21 U.S.C. 1828) is amended by adding at the end the fol-
 22 lowing new subsection:

23 “(v) WRITTEN EMPLOYMENT REFERENCES MAY
 24 CONTAIN SUSPICIONS OF INVOLVEMENT IN ILLEGAL AC-
 25 TIVITY.—

1 “(1) IN GENERAL.—Notwithstanding any other
 2 provision of law, any insured depository institution,
 3 and any director, officer, employee, or agent of such
 4 institution, may disclose in any written employment
 5 reference relating to a current or former institution-
 6 affiliated party of such institution which is provided
 7 to another insured depository institution in response
 8 to a request from such other institution, information
 9 concerning the possible involvement of such institu-
 10 tion-affiliated party in potentially unlawful activity.

11 “(2) DEFINITION.—For purposes of this sub-
 12 section, the term ‘insured depository institution’ in-
 13 cludes any uninsured branch or agency of a foreign
 14 bank.”.

15 **SEC. 204. BANK SECRECY ACT ADVISORY GROUP.**

16 Section 1564 of the Annunzio-Wylie Anti-Money
 17 Laundering Act (31 U.S.C. 5311 note) is amended—

18 (1) in subsection (a), by inserting “, of non-
 19 governmental organizations advocating financial pri-
 20 vacy,” after “Drug Control Policy”; and

21 (2) in subsection (c), by inserting “, other than
 22 subsections (a) and (d) of such Act which shall
 23 apply” before the period at the end.

1 **SEC. 205. AGENCY REPORTS ON RECONCILING PENALTY**
 2 **AMOUNTS.**

3 Before the end of the 1-year period beginning on the
 4 date of the enactment of this Act, the Secretary of the
 5 Treasury and the Federal banking agencies (as defined in
 6 section 3 of the Federal Deposit Insurance Act) shall each
 7 submit their respective reports to the Congress containing
 8 recommendations on possible legislation to conform the
 9 penalties imposed on depository institutions (as defined in
 10 section 3 of the Federal Deposit Insurance Act) for viola-
 11 tions of subchapter II of chapter 53 of title 31, United
 12 States Code, to the penalties imposed on such institutions
 13 under section 8 of the Federal Deposit Insurance Act.

14 **TITLE III—ANTICORRUPTION**
 15 **MEASURES**

16 **SEC. 301. CORRUPTION OF FOREIGN GOVERNMENTS AND**
 17 **RULING ELITES.**

18 **SENSE OF THE CONGRESS.**—It is the sense of the
 19 Congress that, in deliberations between the United States
 20 Government and any other country on money laundering
 21 and corruption issues, the United States Government
 22 should—

23 (1) emphasize an approach that addresses not
 24 only the laundering of the proceeds of traditional
 25 criminal activity but also the increasingly endemic

1 problem of governmental corruption and the corrup-
 2 tion of ruling elites;

3 (2) encourage the enactment and enforcement
 4 of laws in such country to prevent money laundering
 5 and systemic corruption;

6 (3) make clear that the United States will take
 7 all steps necessary to identify the proceeds of foreign
 8 government corruption which have been deposited in
 9 United States financial institutions and return such
 10 proceeds to the citizens of the country to whom such
 11 assets belong; and

12 (4) advance policies and measures to promote
 13 good government and to prevent and reduce corrup-
 14 tion and money laundering, including through in-
 15 structions to the United States Executive Director of
 16 each international financial institution (as defined in
 17 section 1701(c) of the International Financial Insti-
 18 tutions Act) to advocate such policies as a system-
 19 atic element of economic reform programs and ad-
 20 vice to member governments.

21 **SEC. 302. SUPPORT FOR THE FINANCIAL ACTION TASK**
 22 **FORCE ON MONEY LAUNDERING.**

23 It is the sense of the Congress that—

24 (1) the United States should continue to ac-
 25 tively and publicly support the objectives of the Fi-

1 nancial Action Task Force on Money Laundering
2 (hereafter in this section referred to as the
3 “FATF”) with regard to combating international
4 money laundering;

5 (2) the FATF should identify noncooperative
6 jurisdictions in as expeditious a manner as possible
7 and publicly release a list directly naming those ju-
8 risdictions identified;

9 (3) the United States should support the public
10 release of the list naming noncooperative jurisdic-
11 tions identified by the FATF;

12 (4) the United States should encourage the
13 adoption of the necessary international action to en-
14 courage compliance by the identified noncooperative
15 jurisdictions; and

16 (5) the United States should take the necessary
17 countermeasures to protect the United States econ-
18 omy against money of unlawful origin and encourage
19 other nations to do the same.

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